

(2017) 11 BOM CK 0077
In the Bombay High Court
Case No : 8323 of 2003

Rupnawar Dhanaji Dinkar

APPELLANT

Vs

Jai Bhavani Education Society Taluka Phaltan District Satara
and running school by name Shriram Kholeshwar Vidhyalaya,
& Ors.

RESPONDENT

Date of Decision : 02-11-2017

Acts Referred:

Citation : (2017) 11 BOM CK 0077

Hon'ble Judges : Vasanti A.Naik, Riyaz I Chagla

Bench : DIVISON BENCH

Advocate : Vijay Patil, A.P.Vanarase

Final Decision : Dismissed

Judgement

1. By this writ petition, the petitioner seeks a direction against the respondent nos.1 and 2 to pay the salary to the petitioner from June, 1992 onwards. According to the petitioner, he was appointed as a teacher in the school run by the respondent no.1-society on 13.6.1992. It is stated that the petitioner was not paid salary since his appointment. The school was entitled to receive 25 % grant-in-aid in the year 1997. It is the case of the petitioner that even after the school was brought on 100 % grant-in-aid in the year 2000, the petitioner was not paid the salary. It is stated that all the teachers of the school except the petitioner had filed a writ petition bearing No.1899 of 1999 and this Court had directed the respondent nos.1 and 2 to release the salary of the said teachers. It is stated that since the petitioner was not paid salary from the date of his appointment till the petition was filed, the petitioner has made a prayer for a direction against the respondent nos.1 and 2 to pay the arrears of salary to the petitioner.

2. The respondent no.1-State of Maharashtra has denied the liability to pay the salary. It is stated that the school was brought on 100 % grant-in-aid only in the year 2000 and a proposal for appointment of the petitioner and payment of

salary to him was never submitted to the education authorities.

3. The respondent nos.1 and 2 have filed the affidavit-in-reply. It is stated in the affidavit-in-reply that the petitioner was working purely on temporary basis from June, 1992 and though the appointment order was issued in favour of the petitioner on 30.5.1992 appointing him on purely temporary basis, he ceased to work with the respondent nos. 1 and 2 since May/September,1998. It is stated that the writ petition for seeking the monetary benefit is filed in the year 2003. The learned counsel for the respondent nos.1 and 2 states that the relief sought by the petitioner cannot be granted in the circumstances of the case especially when the petitioner has ceased to work in the school since September, 1998. It is stated that the claim for arrears of salary could be restricted only for the period of three years before filing of the petition and since the writ petition is filed on 18.11.2003, the petitioner could have made a claim for salary only for the period from 18.11.2000. It is stated that since the petitioner has ceased to work from September 1998, the writ petition is liable to be dismissed.

4. On a perusal of the writ petition and hearing the learned counsel for the respondents, it appears that the relief sought by the petitioner cannot be granted in exercise of the writ jurisdiction. In para 7 of the petition, it is clearly averred that the petitioner would also be entitled to the arrears of salary from the date of his appointment till the year 1999, as was granted to the other teachers in view of the directions given in the writ petition filed by them. The respondent nos.1 and 2 have clearly stated in the affidavit-in-reply that the petitioner ceased to work in the school run by the respondent no.1 society from September, 1998. The said statement is not controverted by the petitioner by filing a rejoinder. In any case, the question whether the petitioner worked till September 1998 or continued to work thereafter, cannot be decided in exercise of the writ jurisdiction. Since the monetary claim could be made only for the period of three years preceeding the date of the filing of the writ petition and since the writ petition is filed on 18.11.2003 and there is no material on record to show that the petitioner worked with the respondent no1 and 2 after 18.11.2000, the claim of the petitioner for grant of arrears of salary cannot be granted.

5. In the circumstances of the case, the writ petition is liable to be dismissed. Hence, we dismiss the same with no order as to costs. Rule stands discharged.